

## Message Text

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ACTION OES-07

INFO OCT-01 NEA-10 ISO-00 SOE-01 AID-05 CEA-01 CIAE-00  
COME-00 DODE-00 EB-08 DOE-12 H-01 INR-07 INT-05  
L-03 NSAE-00 NSC-05 OMB-01 PM-05 USIA-06 SP-02  
SS-15 STR-05 TRSE-00 ACDA-12 /112 W  
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R 240827Z DEC 77  
FM AMEMBASSY KUWAIT  
TO SECSTATE WASHDC 9775

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E.O. 11652: N/A  
TAGS: ENRG, KU  
SUBJECT: AMINOIL REQUESTS ARBITRATION OF ITS CLAIM FOR  
COMPENSATION

1. ON DEC. 21 AMINOIL VICE PRES AND FORMER KUWAIT  
GENERAL MANAGER, LARRY ISON, DELIVERED LETTER DATED DEC.  
20, 1977 ADDRESSED TO KUWAIT MINISTER OF OIL TO OFFICE OF  
ACTING MINISTER OF OIL AND MINISTER OF FINANCE AL-ATEEQI  
FROM AMERICAN INDEPENDENT OIL CO. PRES. SUNDERLAND  
DECLARING THAT AMINOIL WAS INITIATING PROCEEDINGS FOR  
ARBITRATION OF ITS CLAIMS AGAINST THE GOK AS THE RESULT  
OF THE RECENT NATIONALIZATION OF ITS KUWAIT OPERATION.  
TEXT OF LETTER FOLLOWS:

2. BEGIN TEXT. NOTE OF ARBITRATION. PLEASE REFER TO OUR  
LETTER OF OCTOBER 20, 1977 CONCERNING THE NATIONALIZATION  
DECREE OF SEPTEMBER 19, 1977, TO WHICH NO REPLY HAS BEEN  
RECEIVED.  
PURSUANT TO ARTICLE 18 OF THE CONCESSION AGREEMENT  
BETWEEN HIS HIGHNESS THE RULER OF KUWAIT AND AMERICAN  
INDEPENDENT OIL COMPANY DATED THE 28TH DAY OF JUNE, 1948,  
WE HEREBY INITIATE PROCEEDINGS FOR ARBITRATION OF THIS  
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COMPANY'S CLAIMS AGAINST THE GOVERNMENT OF KUWAIT. THOSE  
CLAIMS ARISE OUT OF OR ARE IN CONNECTION WITH THE  
GOVERNMENT'S UNILATERAL TERMINATION ON SEPTEMBER 19, 1977,  
OF THAT CONCESSION AGREEMENT, AS AMENDED; THE SEIZURE  
OF THE COMPANY'S PROPERTIES AND ASSETS IN KUWAIT AND  
THE KUWAIT-SAUDI ARABIA DIVIDED ZONE ON THAT DATE; AND THE  
DISCUSSIONS BETWEEN THE GOVERNMENT AND THE COMPANY PRECEDING

THAT DATE.

AS PROVIDED IN ARTICLE 18, WE HERBY REQUEST THE GOVERNMENT TO NOMINATE THE GOVERNMENT'S ARBITRATOR WITHIN 60 DAYS OF THE DATE OF THE DELIVERY OF THIS NOTICE AND REQUEST, AND TO INFORM US WHOM THE GOVERNMENT HAS NOMINATED. WE SHALL LIKEWISE NOMINATE OUR ARBITRATOR AND INFORM THE GOVERNMENT WHOM WE HAVE NOMINATED WITHIN THE SAME PERIOD.

AS PROVIDED IN ARTICLE 18, THE PLACE OF ARBITRATION WILL BE LONDON, ENGLAND, UNLESS THE GOVERNMENT AND THE COMPANY MUTUALLY AGREE ON SOME OTHER PLACE.

ALL CORRESPONDENCE, NOTICES OR DOCUMENTS WHICH THE GOVERNMENT FURNISHES TO THE COMPANY WITH RESPECT TO THE ARBITRATION SHOULD BE DIRECTED TO AMERICAN INDEPENDENT OIL COMPANY, ATTENTION: PRESIDENT, 50 ROCKEFELLER PLAZA, NEW YORK, NEW YORK 10020, U.S.A.

END TEXT.

3. COMMENT: AMINOIL REQUEST FOR ARBITRATION WAS BASED ON 1948 CONCESSION AGREEMENT INSTEAD OF MOST RECENT AGREEMENT SIGNED IN 1973 BECAUSE LATTER HAD NEVER BEEN RATIFIED BY NATIONAL ASSEMBLY AND THEREFORE WAS NOT REGARDED AS LEGALLY VALID INSTRUMENT. MOREOVER, ARBITRATION PROVISION IN 1973 AGREEMENT CALLED FOR HOLDING PROCEEDINGS IN KUWAIT WHICH AMINOIL DID NOT CONSIDER DESIRABLE AT THIS STAGE.

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4. SUNDERLAND DECIDED ON THIS STEP AFTER RECEIVING ADVICE FROM BOTH BRITISH AND AMERICAN (WILLIAM OWEN AND RICHARD YOUNG) LAWYERS. FORMER CONSIDERED THAT, IF KUWAITIS REFUSED TO PARTICIPATE, THERE WAS GOOD POSSIBILITY THAT A JUDGMENT AGAINST THE GOK, BASED ON A UNILATERAL ARBITRATION FINDING, COULD BE OBTAINED UNDER THE BRITISH BECAUSE OF POLITICAL CONTEXT IN WHICH AGREEMENT SIGNED. JUDICIAL SYSTEM. THE AMERICAN LAWYERS, WHO EXAMINED THE SUBSTANTIVE ASPECTS OF THE CASE, FELT THAT AMINOIL COULD BE LEGALLY ENTITLED TO A SETTLEMENT IN THE NEIGHBORHOOD OF \$100 MILLION.  
MAESTRONE

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## Message Attributes

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**Status:** NATIVE  
**Subject:** AMINOIL REQUESTS ARBITRATION OF ITS CLAIM FOR COMPENSATION  
**TAGS:** ENRG, KU  
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